

[REDACTED]
[REDACTED]
[REDACTED]
18 JUL 1987

CERTIFIED MAIL

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted indicates you were formed as a club in [REDACTED].

Your stated purposes are to promote the welfare and betterment of the community of [REDACTED], promote the social interests of its members, and provide an opportunity for a sharing of the common bond between the members.

Your activities include scheduled fishing tournaments, meetings, annual boat and fishing tackle show, youth fishing contest, picnic and awards banquet.

The annual boat and tackle show and meetings are open to the public. [REDACTED] percent of all profits from the boat show is designated for youth programs and support to [REDACTED]. The remaining funds are for club operation and ongoing programs. The public is informed about the activities by flyers and advertisements. Non-members are not permitted to attend picnics, banquets, or fishing tournaments and purchase raffle tickets or club wearing apparel.

Income is derived from the boat show, fishing tournaments, dues, sale of club jackets, hats and shirts, banquet fees, and raffles. Expenditures are for fishing tournaments, club jackets, hats and shirts, annual banquet, trophies, picnic food and supplies, rent, insurance, youth fishing and facilities fee.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	6/26/87	6/30/87	7/13/87				

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inure to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the income tax regulations provides as follows:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.
- (b) A club which engaged in business, such as making its social and recreational facilities available to the general public - - - is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

You advertise to the public by flyers and newspaper advertisements.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from the use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 58-589, 1958-2, 267, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to or in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are no more than enough to pay their share of the expenses.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other than bona fide members and their guests, or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

In liberalizing the amount of non-member income that could be received by social clubs, Congressional Committee Reports state that the amendment (Public Law 94-568) was not intended to permit social clubs to receive, even within the allowable guidelines for outside income, income from the active conduct of businesses not traditionally carried on by social clubs. (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 596.)

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, page 240, holds that a non-profit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other non-profitable purposes under section 501(c)(7) of the Internal Revenue Code of 1954.

Revenue Procedure 71-17, 1971-1 C.B., 683, establishes recordkeeping requirements for social clubs, to separate non-member income. If these requirements are met, certain presumptions as to member vs. non-member income may be made, as outlined in the Revenue Procedures.

The annual boat and tackle show are open to the public. Non-members are not permitted to attend the fishing tournaments, picnics and banquets. However, the funds are used to cover the costs of the fishing tournaments, banquets and picnic. You also purchased trophies for members. Even if non-members do not participate, the expenses of the club would stay the same. Only a small portion of the net earnings was donated for charitable purposes. Therefore, the income received from nonmembers is subsidizing the operation of the club and is inuring to club members.

The organization and operation of a club in a manner which constitutes a subterfuge for doing business with the public is inconsistent with the term "club" as used in IRC 501(c)(7).

On the basis of the evidence presented, the requirements for exemption of a social and recreational club defined in the Code and income tax regulations, and the interpretation of the Code and regulations cited in the Revenue Ruling noted above, we hold that you do not qualify for exemption under section 501(c)(7) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of the Internal Revenue Code Section 501(c).

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosure: Publication 892